

Atty. Docket 63823.0102  
Patent

S/N 10/637,220

### Remarks

Applicants appreciate the careful examination given to the Application as reflected in the Final Office Action mailed December 11, 2006. Reconsideration and favorable action in this Application is respectfully requested.

Claims 1-11, 15 and 17-51 have been cancelled.

Claims 12, 13, 14 and 16 are pending.

### *Objection to Specification*

The Office Action objects to the specification as failing to provide proper antecedent basis for the claimed subject matter "overlapping flanges" of claim 12.

As an initial matter, claim 12 has been amended after final to address the Examiner's concerns related to definiteness. The claim term "overlapping flanges" has been replaced with the more definite terms "first pair of flanges", "second pair of flanges", "third pair of flanges" and "fourth pair of flanges" along with a structural definition of where the flanges are attached and how the flanges are attached. Applicants submit that the structural elements and the interconnection of the structural elements now positively position and define the flanges and how they are "overlapping" so that an integral structure of the claimed pallet is clearly defined.

Turning to the specification, Applicant has amended the specification to reference how the flanges of the cross members overlap the ends of the support members and are affixed to the ends of the support members. Support for the amendment is shown in Figure 7 and also found at page 5, lines 10-13 and page 8, line 21 through page 9, line 5 of the specification. Figure 7 clearly depicts the ends of cross members 706 and 708 as having extensions that overlap the ends of support members 702 and 704. The figure also shows the pairs of flanges by the exposed,

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hollow ends of support members 702 and 704 at each end of cross member 706. Figure 7 fairly shows to one skilled in the art the structure and interconnection between the various elements. No new matter has been added by this amendment to the specification. See *In re Wolfensperger*, 302 F.2d 950, 133 USPQ 537 (C.C.P.A. 1962) (drawings may provide the basis for subsequent amendments to the specification without producing prohibitory new matter therein).

### *§112 Second Paragraph Rejection of Claims*

The Office Action rejects claims 12 – 14, and 16 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 has been amended to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Applicants have amended claim 12 to include sufficient structural elements and the interconnection of the elements as described above. Claim 12 has been rewritten and is now believed to meet the strictures of §112. Claims 13, 14, and 16 depend from claim 12 and include all the limitations of claim 12. Claims 13, 14 and 16 therefore also meet the requirements of § 112.

It is submitted that claims 12 – 14, and 16 are now in condition for allowance.

### *§102(b) Rejection of Claims*

The Office Action rejects claims 1, 2, and 3 under 35 U.S.C §102(b) as being anticipated by *Wallace* (U.S. Patent No. 5,676,063).

Claims 1, 2 and 3 have been cancelled. Therefore, it is submitted that this rejection is moot.

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*§103(a) Rejection of Claims*

The Office Action rejects claim 11 under 35 U.S.C §103(a) as being unpatentable over *Wallace*. The Office Action further rejects claims 4 and 10 under 35 U.S.C §103(a) as unpatentable over *Wallace* in view of *Polando* (U.S. Patent No. 5,970,885). The Office Action further rejects claim 5 under 35 U.S.C §103(a) as unpatentable over *Wallace* in view of *Woods* (U.S. Patent No. 6,352,039). The Office Action further rejects claim 6 under 35 U.S.C §103(a) as unpatentable over *Wallace* in view of *Woods* and further in view of *Gronnevik* (U.S. Patent No. 5,845,588).

Claims 4, 5, 6, 10 and 11 have been cancelled. Therefore, it is submitted that this rejection is moot.

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**Telephone Interview**

On June 26, 2007, the Examiner permitted a short telephone interview. During the interview, the amendments proposed to the specification and claims in Applicant's response filed May 11, 2007 were discussed. It was agreed that the second proposed amendment to the specification (beginning at page 8, line 26) should be removed to avoid any potential new matter issues. It is believed that agreement was reached as to the wording of the amendments to the claims to place them in condition for allowance.

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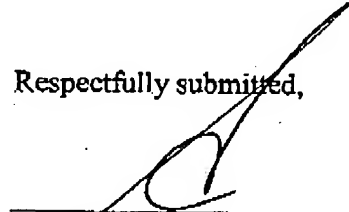
**Conclusion**

Applicant has diligently read and studied the final Office Action and the references cited. The Office Action indicates that claims 12-14 and 16 would be allowable if rewritten to overcome the rejection under § 112. Applicant has amended the claims to meet the requirements of § 112. All other pending and withdrawn claims have been cancelled in an earnest attempt to place this case in condition for allowance.

In view of the above, it is submitted that claims 12-14 and 16 are in condition for allowance. Favorable action is solicited. Should it facilitate allowance of the Application, the Office is invited to telephone the undersigned agent of record.

Dated: June 26, 2007

Respectfully submitted,



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